

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
07-20377-CR-COOKE/BROWN**

Case No.

18 U.S.C. § 1347

18 U.S.C. § 2

UNITED STATES OF AMERICA

vs.

MARIA OLIVEROS-GARAY,

Defendant.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

The Medicare Program

1. The Medicare Program ("Medicare") was a federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS"), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

2. Medicare was a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b).

3. Part B of the Medicare Program was a medical insurance program that covered, among other things, certain physician and outpatient services, and other health care benefits, items, and services, including durable medical equipment (“DME”), that were medically necessary and ordered by licensed medical doctors or other qualified health care providers. DME is equipment that is designed for a specific medical purpose and for repeated use, such as wound care supplies, knee braces, prosthetic limbs, back braces, wrist braces, and wheelchairs.

4. For Florida Medicare beneficiaries, Palmetto Government Benefits Administrators (“Palmetto GBA”), had a contract with HHS to receive, process and pay claims by Medicare beneficiaries for reimbursement for the cost of DME and related health care benefits, items, or services supplied or provided to such beneficiaries.

Medicare Billing and Payment Procedures

5. A DME company that sought to participate in Medicare Part B and bill Medicare for the cost of DME and related benefits, items, and services was required to apply for and receive a “supplier number.” The supplier number allowed a DME company to submit bills, known as “claims,” to Medicare to obtain reimbursement for the cost of DME and related health care benefits, items, and services that a DME company had supplied or provided to beneficiaries.

6. To receive payment from Medicare, a DME company, using its supplier number, would submit a health insurance claim form, known as a CMS-1500. Medicare permitted DME companies to submit a CMS-1500 electronically or by way of a paper claim form. Each claim form required certain important information, including: (a) the Medicare beneficiary’s name and

identification number; (b) the identification number of the doctor or other qualified health care provider who ordered the health care benefit, item, or service that was the subject of the claim; (c) the health care benefit, item, or service that was provided or supplied to the beneficiary; (d) the billing codes for the benefit, item, or service; and (e) the date upon which the benefit, item, or service was provided or supplied to the beneficiary.

7. Medicare, through Palmetto GBA, generally would pay a substantial portion of the cost of the DME or related health care benefits, items, and services that were medically necessary and ordered by licensed doctors or other qualified health care providers.

Abue Medical Equipment, Inc. and Defendant

8. Abue Medical Equipment, Inc. ("Abue Medical") was a Florida corporation that was incorporated on or about June 15, 2005 and was located in Miami-Dade County at 2500 N.W. 79th Ave, Doral, Florida, 33122.

9. Abue Medical obtained Medicare supplier number 5522490001 in or around August 2005 and was thus authorized to submit claims to Medicare for DME benefits, items, and services.

10. On or about May 8, 2006, defendant, **MARIA OLIVEROS-GARAY**, purchased Abue Medical, became its president and sole owner, and thereafter controlled its activities.

11. From on or about May 8, 2006 through in or around October 2006, Abue Medical submitted approximately \$3,864,336 in claims to Medicare, seeking reimbursement for DME benefits, items, and services that Abue Medical supposedly had provided to Medicare beneficiaries. In response to these claims, Medicare paid Abue Medical approximately \$1,507,580.

COUNTS 1-4
HEALTH CARE FRAUD
(18 U.S.C. §§ 1347 and 2)

1. Paragraphs 1 through 11 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around May 8, 2006, and continuing through in or around October 2006, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

MARIA OLIVEROS-GARAY,

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud Medicare, a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, Medicare, that is, the defendant caused Abue Medical Equipment, Inc. to submit false and fraudulent claims to Medicare, seeking reimbursement for the cost of various DME items and services.

Purpose of the Scheme and Artifice

3. It was the purpose of the scheme and artifice for the defendant to unlawfully enrich herself by, among other things: (a) submitting or causing the submission of false and fraudulent claims to Medicare; (b) concealing the submission of false and fraudulent Medicare claims; and/or (c) diverting fraud proceeds for the personal use and benefit of the defendant and others.

The Scheme and Artifice

The manner and means by which the defendant and her accomplices sought to accomplish the purpose of the scheme and artifice included, among others, the following:

4. **MARIA OLIVEROS-GARAY** caused Abue Medical to submit approximately \$3,864,336 of Medicare claims for DME-related reimbursement, such claims falsely and fraudulently representing that DME items and services were medically necessary and/or had been provided to Medicare beneficiaries.

5. As a result of such false and fraudulent claims, **MARIA OLIVEROS-GARAY** caused Medicare to make payments to Abue Medical in the approximate amount of \$1,507,580, and such payments were deposited into Abue Medical's corporate account, Banco Popular account number xxxxxx0422.

6. **MARIA OLIVEROS-GARAY** transferred and disbursed, and caused the transfer and disbursement of, monies in Abue Medical's corporate account to herself and others, including, but not limited, to transfers to two companies owned by **OLIVEROS-GARAY**, MG Refrigeration Contractor, Corp. ("MG Refrigeration") and Golden Construction & Services Corp. ("Golden Construction").

Acts in Execution or Attempted Execution of the Scheme and Artifice

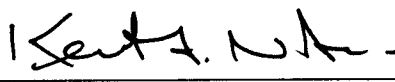
5. On or about the dates set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **MARIA OLIVEROS-GARAY**, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, that is Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of said health care benefit program:


Count	Medicare Beneficiary	Approx. Date of Claim	Medicare Claim Number	Item Claimed; Approx. Amount Claimed
1	M.R.	06/16/2006	106164767119000	Ventilator (E0463); \$1406.38.
2	M.R.	07/05/2006	106164741899000	Infusion Pump with Alarm (B9000); \$1,196.35.
3	A.E.	06/19/2006	106170704586000	Negative Pressure Wound Therapy Pump (E2402); \$1716.46.
4	A.E.	07/06/2006	106188737893000	Ventilator (E0463); \$1406.38.

In violation of Title 18, United States Code, Sections 1347 and 2.

A TRUE BILL

~~FOR PERSON~~


 R. ALEXANDER ACOSTA
 UNITED STATES ATTORNEY


 JEFFREY E. MARCUS
 ASSISTANT U.S. ATTORNEY

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

MARIA OLIVEROS-GARAY,

Defendant. /

Superseding Case Information:

Court Division: (Select One)

☒ Miami ☐ Key West
☐ FTL ☐ WPB ☐ FTP

New Defendant(s) Yes _____ No _____
 Number of New Defendants _____
 Total number of counts _____

I do hereby certify that:

- I have carefully considered the allegations of the information, the number of defendants, the number of probable witnesses and the legal complexities of the Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

- Interpreter: (Yes or No) Yes
 List language and/or dialect Spanish

- This case will take 4 days for the parties to try.

- Please check appropriate category and type of offense listed below:
 (Check only one) (Check only one)

I	0 to 5 days	<u>x</u>	Petty	_____
II	6 to 10 days	_____	Minor	_____
III	11 to 20 days	_____	Misdem.	_____
IV	21 to 60 days	_____	Felony	<u>x</u>
V	61 days and over	_____		

- Has this case been previously filed in this District Court? (Yes or No) No

If yes:

Judge: _____ Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No

If yes:

Magistrate Case No. _____

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

- Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003? Yes x No

- Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? Yes x No

If yes, was it pending in the Central Region? Yes No

- Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes No x

- Does this case originate from a matter pending in the Narcotics Section (Miami) prior to May 18, 2003? Yes x No


 JEFFREY E. MARCUS
 ASSISTANT UNITED STATES ATTORNEY
 Florida Bar No. 310890

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name MARIA OLIVEROS-GARAY

Case No: _____

Counts 1-4

Health Care Fraud

18 U.S.C. § 1347

*** Max. Penalty:** 10 years' imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**